



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
PUBLIC PATENT FOUNDATION, INC.,

Plaintiff,

- against -

GLAXOSMITHKLINE CONSUMER  
HEALTHCARE, L.P.,

Defendant.  
-----X

09 Civ. 5881 (RMB)

**ORDER**

In light of the appeal currently pending in the Court of Appeals for the Federal Circuit of an order issued in Stauffer v. Brooks Bros. Inc., No. 08 Civ. 10369 (S.D.N.Y. May 14, 2009), which raises same legal question that is currently pending here, (see Def. Mem. of Law in Support of Mot. to Dismiss, dated Sept. 30, 2009, at 1 (“With no allegation of injury, the ‘hard floor’ of Article III standing is absent and there is no subject matter jurisdiction.”); Pl. Mem. in Opp’n of Mot. to Dismiss, dated Oct. 28, 2009, at 5 (“the sovereign interest of the United States . . . provides PubPat with standing to bring this qui tam action”); Mem. of Law of the U.S. as Intervenor Defending the Constitutionality of 35 U.S.C. § 292, dated Nov. 30, 2009, at 9 (“Stauffer was wrongly decided.”)), it is hereby

**ORDERED**, that the above-captioned action is stayed and placed on the Court’s suspense docket pending resolution of Stauffer by the Federal Circuit, see Veto Pro Pac, LLC v. Custom Leathercraft Mfg. Co., Inc., No. 08 Civ. 302, 2009 WL 276369, at \*2, and it is further

**ORDERED**, that the parties are directed to advise the Court of the outcome in Stauffer.

Dated: New York, New York  
February 17, 2010

RICHARD M. BERMAN, U.S.D.J.